848.547

Rt. 12, Frederick, Md. 21701
6/4/76

Mr. Clarence Kelley, Director
FBI
Washington, D.C. 20535

Dear Mr. Kelley,

While in this letter I will address other matters, I am forced to include what ordinarily I would ask counsel to handle. I do it on my own responsibility because there is no time prior to the next status call in 75-1996. As of now there are but [redacted] working days before the morning of the 10th. This means I must write you directly because it relates to a matter before the court.

Yesterday I received from counsel your letter of May 28 with five pages attached.

Several months ago the court, through your counsel, directed the Bureau as one of the respondents in this action to justify all marking. In the last status call the court offered the opinion that the Bureau went to more trouble to mark what need not be marked than simply answering the entire page would take in time and trouble. Through your counsel you make a big thing of the time required of your associates.

You invoke exemptions (b)(2) and (b)(7)(C). I believe neither is justified. I believe further that this is a direct violation of the directions of the court of several months ago to which you have yet to make response and with which you have not yet complied.

I add emphasis to the language of the statute you cite:"materials related solely to the internal rules and practices of the FBI;"

Under this scant shadow of this nonsensical figleaf you have marked 100% of what was on page 1 of the Bureau's 4/23/76 under "Gary Rosenkrantz" and "Results of examination." You have marked all but 1 3/8" of whatever may have appeared on page 2, all of page 3, and I have no way of knowing whether or not there were other pages.

It defies reason to claim that withholding what is appropriate to these headings on the claimed ground that it relates "solely" to both your internal rules and practices. The Bureau examines specimens solely because it has "internal rules and practices?"

I remind you that in amending the FOIA the Congress could not have been more specific in what it said, particularly in the conference report, on scientific tests.

On the question of an undefined, undescribed, totally unindicated claim to the right of privacy you have marked what clearly can be only the names of those who conducted these tests. I believe there is no special exception for this and I know it is in direct opposition to your practice in all cases involving me until this suit. By the most remarkable of coincidences a number of your former agents all younger than I have taken retirement and by the same coincidence your counsel has claimed in court that they cannot be called upon to respond under discovery. These also happen to be former agents with first-person knowledge. (You have yet to supply any court in any of my cases with a single first-person affidavit. The U.S.Court of Appeals addressed this yesterday and not in accord with your practice.) None of these agents have departed then you have yet informed any court.

I believe not only that you do not and never did have any such right but that the courts of this jurisdiction have held directly to the contrary. I mean quite some time before your most recent and I believe utterly deliberate and spurious invention of what is not only a non-existent right but is contrary to what the judge in this case said in this case months ago.

As int the past when I believed you should have personal knowledge of what is done in your name I am sending this certified, addressee only. I will have copies of the forms in the event they are of interest to the court. Had an experience of the past I have obtained some of these forms for this purpose.

Yesterday I did notice with counsel what to do about these unanswered requests I have made. He asked me to file a formal appeal. If necessary I will do this. However, with all the happening I have heard from your counsel in court about the great amount of work required and how burdensome it is, I would prefer to give you a little more time. Instead of filing a formal appeal I ask that you comply with all my requests, most of which are simple, by the end of week after next. If you do not I ask that you forward this as my appeal or if you will not notify me so that if I do not have compliance by the mail of June 18 I can mail a separate appeal.

If you see the mail you sign you should recall that I filed requests last October that the Bureau pretended I had not filed. Have them seven full months have elapsed and I have received nothing. And these are only the more recent requests. Some are quite old.

Mr. Hoover was directed by the then Attorney General to respond to reports I had received about Bureau agents going around after me and engaging in defamation. I have received nothing from Mr. Hoover or any subsequent Director. Not a single report and not even a ~~pro forma~~ denial.

Another old request is one that I believe should interest you not only because it has not been complied with but because of what else I report. This relates to what the Bureau saw fit to withhold from the Warren Commission, pictures and reports by and about an Army intelligence agent at the scene of the assassination of President Kennedy and for some time confined within the Texas School Book Depository Building from which it is alleged the crime was committed. This Army intelligence agent is James Powell. He had his camera during the time he was not permitted to leave that building.

Under date of December 2, 1970 - ~~five and a half years ago~~ - with a covering letter I filed the BF-118 form with my check for the required amount. To date I have received nothing. However, you, I understand personally by your signature, have given one picture taken by Mr. Powell to another. I mean by this recently and to a competitor in the field in which I work.

I hope you will agree, particularly in the light of some of the allegations you have made about me through your counsel, that you should institute an investigation and that I should hear further from your on this. By this I mean further than belated compliance, which I would hope would be both complete and prompt.

There are other requests never responded to subsequent to this one of 1970 and prior to this past October.

I have tried to be patient because I do know you have had a flood of requests. That the past illegalities of the Bureau are responsible for this does not, I realize, reduce the volume of these requests. However, I am not a man of means. The burden for me is greater and moreover, it is you who deny me my rights. It is not the other way around. When you have not acted on requests that are in all cases perfectly proper and they go back to 1969 and 1970, I would also appreciate it if you would direct your counsel not to allege to the court in any case whatever you or he want to allege that is in my mind. In no case has this ever been done on the basis of fact, in no case has it been faithful, in no case relevant. I had more of this updated Cointelpro operation on your behalf yesterday than I ever want again.

Sincerely,

Harold Weisberg